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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,360	09/24/2001	Gerald J. Ware	WAR1394.07A	8250

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EXAMINER
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YEUNG, GEORGE CHAN PUI

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/963,360

Applicant(s)

WARE, GERALD J.

Examiner

George C. Yeung

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19,21,22,24-27,29-33,35-42,44-51 and 53-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-33,35-39 and 59-61 is/are allowed.
- 6) ☒ Claim(s) 19,21,22,24-27,29,30,40-42,44-51,53-58 and 62-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejection –35 USC § 112, FIRST PARAGRAPH***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 19, 21, 22, 24-27, 29, 30, 40-42, 44-51, 53-57 and 62-68 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the specification for the limitation “particulate” recited in claims 19, 25, 30, 40, 49 and 62. No new matter can properly be introduced into the specification.

Contrary to applicant's contention, Figures 4 and 5 of the drawings, page 7 (lines 8-10) and page 14 (lines 2-19) of the instant specification fail to disclose the “particulate” nature of the support substrate. Note that Merriam-Webster Collegiate Dictionary, Tenth Edition, defines particulate as “minute separate particles.” In fact, the specification at page 14, lines 10-19, calls for spheres of  $\frac{3}{4}$  of an inch which are hardly minute.

***Claim Rejection –35 USC § 112, SECOND PARAGRAPH***

Claims 44-46, 53, 55 and 63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the following reasons:

It is not clear how the particulate support substrate can be in the form of a plurality of spheres as recited in claims 44, 53 and 63. Note that particulate substrate, i.e., minute or very small particles, has no form or shape.

***Claim Rejection –35 USC§ 103***

Claims 19, 21, 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Juarez et al (WO 96/35340) in view of Ware (U.S. Patent 5,522,156). Juarez et al show the claimed structure set forth in claims 19, 21, 22 and 24 with the exception of the support substrate. It would have been obvious to provide the conveyor of Juarez et al with a support substrate in the form of a plurality of spheres during the drying operation since Ware teaches that it is old to employ a plurality of spheres to form a drying bed which provides for even application of particulate food products to be dried over the drying bed, thereby facilitating faster drying of the products.

Claims 25-27, 29, 30 40-42, 44-51, 53-58 and 62-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott (U.S. Patent 4,419,834) in view of Juarez et al (WO 96/35340) and Ware (U.S. Patent 5,522,156). Scott shows the

Art Unit: 1761

claimed structure set forth in claims 25, 30, 40, 49, 58 and 62 with the exception of the ultrasound source and the support substrate in the form of a plurality of spheres. Juarez et al show the conventional expedient of guiding a hot gas stream over solid food products to be dehydrated and simultaneously subjecting the products to ultrasonic waves which expel a small amount of water towards the surface of the products where this water is evaporated by the hot gas stream. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Scott such that ultrasonic waves are generated within the drying zones (26, 28, 30) as per the teaching of Juarez et al in order to expel a small amount of water towards the surface of the products, thereby allowing for more efficient drying by the circulating hot gas. It would also have been obvious to provide the conveyor of Scott with a plurality of spheres during the drying operation since Ware teaches that it is old to employ a plurality of spheres to form a drying bed which provides for even application of particulate food products to be dried over the drying bed, thereby facilitating faster drying of the products. It is not deemed that the features variously recited in the dependent claims would define unobvious subject matter over the teachings of Scott, Juarez et al and Ware in the absence of any new or unexpected results. The features recited in the dependent claims are considered to be obvious matters of routine optimization or structural design depending upon the type, size and quantity of the food products to be dehydrated.

***Allowable Subject Matter***

Claims 31-33, 35-39 and 59-61 are allowed.

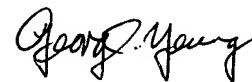
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Yeung whose telephone number is (571) 272-1412. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

G. Yeung/af  
February 24, 2005



GEORGE C. YEUNG  
PRIMARY EXAMINER